REMARKS

Claims 1-41 are currently pending in the subject application and are presently under consideration. Claims 1, 21 and 36 have been amended as shown on pp. 2, 4-5 and 7 of the Reply and claim 37 has been cancelled.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-41 Under 35 U.S.C. §103(a)

Claims 1-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Naik *et al.* (US 2006/0294238) in view of Beck *et al.* (US 2005/0114494 A1). This rejection should be respectfully withdrawn for least of the following reasons. Naik *et al.* alone or in combination with Beck *et al.* does not teach or suggest each and every aspect of the subject claims.

> ***[T]he prior art reference (or references when combined) must teach or suggest all the claim limitations.*** *See* MPEP § 706.02(j). *See also KSR Int'l Co. v. Teleflex, Inc.*, 550 U. S. ____, 04-1350, slip op. at 14 (2007). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on applicant's disclosure. *See In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicants' claimed subject matter relates to a system and methodology that facilitates a data gathering service to provide information regarding a network system's health, performance *and/or* utilization *via* a computing entity, local *and/or* remote. The disclosed system provides an optimized means to aggregate a single network's data *and/or* multiple networks' data, decreasing the amount of effort required by system administrators to keep a network operational *and/or* to provide control of its utilization *and/or* update a system's state. Specifically, aggregated utilization data is employed to provide a management/productivity tool for end-users of a networked system. More specifically, independent claims 1, 21 and 36 recite similar aspects, namely, *acquiring aggregated system state data for at least one system component* ***based in part on one or more aggregation rules parameters that control at least one of how, what or when gathered information is aggregated***, and ***determining utilization of the networked system as a***

whole, of an individual system user and of a group of system users based in part on the analysis. Naik *et al.*, alone or in combination with Beck *et al.*, does not disclose or suggest these novel aspects.

Naik *et al.* relates to a hierarchical grid resource management system and client request management system that performs tasks without the grid clients having any knowledge of underlying uncertainties. The grid clients do not have to know the name or location of the actual resources used, such that, actions are performed transparently to the grid clients and the grid clients are oblivious to the dynamic changes in the availability of grid resources. In particular, the system facilitates reducing the uncertainties in the availability of individual resources because of inaccuracies in the forecasting models or because of the unexpected changes in the policies by using aggregation techniques and by using just-in-time scheduling and routing of grid client requests to the best available grid resources. Further, the grid management system allows dynamic association and disassociation of shared resources with the grid, performs dynamic aggregation of shared resources to satisfy grid client requests, and facilitates efficient means for routing of grid client requests to appropriate resources according to their availability. On page 3 of the Office Action (dated July 24, 2008), the Examiner asserts that Naik *et al.* teaches *a component that obtains aggregated system state data for at least one system component*. It is respectfully submitted that this assertion is incorrect. As disclosed at the cited paragraph [0035], Naik *et al.* merely relates to dynamic aggregation of shared resources to satisfy grid client requests. Specifically, Naik *et al.* relates to forecasting the behavior of a group of shared resources, their availability and quality of their performance in the presence of external policies governing their usage, and deciding the suitability of their participation in a grid computation. However, the system disclosed by Naik *et al.* does not teach or suggest acquiring aggregated system state data, wherein a “state” of a networked system refers to a condition of the networked system in relation to, but not limited to, performance, health, and usage parameters. As defined on page 8 (lines 18-21) in applicants’ subject specification, a state can be a snapshot of a system’s status relating to an historical instance in time *and/or* to a current instance in time *and/or* a future instance in time. Further, Naik *et al.* is silent with respect to *acquiring aggregated system state data for at least one system component based in part on one or more aggregation rules parameters that control at least one of how, what or when gathered information is aggregated.* In addition, Naik *et al.* simply relates to identifying the future state

of a resource to *predict the availability and the quality of the resource for scheduling grid computations* at a future time interval based on relevant policies that can be applied. However, Naik *et al.* fails to disclose *determining utilization of the networked system as a whole, of an individual system user and of a group of system users based in part on the analysis*.

Beck *et al.* relates to a rule monitoring system that facilitates running rules in a concurrent fashion. Specifically, an input instructions component (called a Rules Definition Language (RDL)) expresses one or more rules that are input to the system. The RDL instructions enable the defining of rules for the purposes of monitoring the availability of software and hardware components. More specifically, the system provides a rules engine of an innovative model-based management framework that allows developers to easily author large numbers of rules that express criteria that must be met for a system to be healthy. The framework provides a runtime architecture that facilitates scheduling and simultaneous processing of large numbers of rules. Thus, Beck *et al.* relates to a system that defines RDL instructions and a rules engine that handles the automatic scheduling of rules thereby removing this burden from the user and allowing the user to concentrate on just expressing the monitoring logic. However, Beck *et al.* is does not relate to obtaining aggregated system state data based in part on one or more aggregation rules parameters that control at least one of how, what or when gathered information is aggregated. Further, Beck *et al.* is silent with respect to determining utilization of the networked system as a whole, of an individual system user and of a group of system users based in part on the analysis and thus fails to cure the aforementioned deficiencies of Naik *et al.*

Applicants' subject claims, in contrast, relate to optimized means to aggregate a single network's data *and/or* multiple networks' data, decreasing the amount of effort required by system administrators to keep a network operational *and/or* to provide control of its utilization *and/or* update a system's state. Specifically, a data gathering service component aggregates system information such as health, usage, and performance information and stores it in the database engine component. This permits the administrative agent to access the information and generate aggregated reports. This substantially cuts down on the amount of information that must be assessed by the administrative agent. System reports provided by access to the aggregated data permits control responses to be initiated manually by the administrative agent *and/or* automatically by the control component. The automatic responses can be default responses *and/or* programmed responses by the administrative agent. Thus, if a particular user

of a system is over utilizing an internet bandwidth connection, the present invention provides a means to respond to reduce that particular utilization. This permits a case-by-case assessment without requiring a system-wide mandate to curb a particular system asset. (*See* page 10, lines 6-22.) More specifically, the data gathering service component is comprised of system and user control parameters, aggregation rules parameters, output/reports rule set parameters, contact rules parameters, and additional parameters. In particular, the aggregation rules parameters provide a means for the data gathering service component *and/or* a user interface to control how *and/or* what *and/or* when and the like that gathered information is aggregated. This permits a powerful amount of control over administration of a system. It allows only information that is deemed of high importance to a user (*e.g.*, value-added provider (VAP)) to be presented in an efficient manner, saving vast amounts of time *and/or* manual composition effort of the same information. Aggregated data will inherently have greater value than the sum of its parts due to the added benefits of showing trend data and other hidden data. Finding hidden data is often referred to as "data mining." The aggregated data provided by the present invention allows exploitation of a data set not previously obtainable. (*See* page 13, line 20- page 14, line 7.)

In addition, desired data parameters are then generated based on the aggregated utilization data stored on the distributed database engine store. Desired parameters can include, but are not limited to, internet bandwidth of single system user, internet bandwidth of an entire system, memory utilization of a system, storage utilization of a server, e-mail utilization of a single system user *and/or* a group of system users, and any data that can indicate utilization of a system as a whole *and/or* of an individual system user *and/or* group of system users and the like. The desired data parameters can be derived from necessary data required for a particular control command and the like so that a system can automatically respond to the parameter *and/or* enable a capability to allow a manual response. (*See* page 24, lines 6-15.) Specifically, as claimed in independent claim 1, *a control component initiates a control response based in part on a system report provided by access to the aggregated system state.* Further, independent claim 1 recites the user interface receives at least one user control parameter that facilitates improved utilization of the networked system, system alert reporting and aggregation control. Naik *et al.*, alone or in combination with Beck *et al.* fails to teach these novel features.

With respect to dependent claims, dependent claim 3 recites *the current state status relating to an individual end-user of the networked system.* Specifically, the current state status

of an individual end-user can show a client how their system users are interacting with their system. This provides information that a client can utilize to enhance the performance of the system *and/or* utilize to enhance the performance of the system's user. For example, if a particular system user or employee has a high e-mail send *and/or* receive usage along with hours of internet usage per day, an employer (*i.e.*, the client) can adjust the situation directly by confronting the employee about productivity *and/or* the employer can inform a system's administrator (*i.e.*, user) to restrict that particular employee's internet bandwidth and emailing capabilities. Naik *et al.* and/or Beck *et al.* do not disclose this novel aspect. Further, dependent claim 4 recites the current state status indicating top "X" asset utilization of a particular networked system asset, where X represents a desired number of top asset users. Naik *et al.* at paragraphs [0056] and/or [0059] indicated by the Examiner (or anywhere in the cited references), does not teach or suggest this aspect. Dependent claim 19 recites the control user interface comprising a system prioritization user interface that prioritizes usage of the utilization aspect of the networked system. For example, if boss X wants to process payroll, the initiation of the payroll process causes junior employee's internet downloading processes to be subservient to the boss X's payroll process automatically. (*See* page 25, lines 1-2.) The cited references are silent with respect to this limitation. Further, dependent claim 28 recites providing control to the user to initiate system updates provided in the system update information and dependent claim 30 recites utilizing state related error data and the aggregated system state data to reduce state monitoring information. Naik *et al.*, alone or in combination with Beck *et al.*, fails to disclose these novel aspects.

In view of the foregoing, it is clear that neither Naik *et al.* nor Beck *et al.*, either alone or in combination, suggests each and every feature of independent claim 1, 21 and 36 (and associated dependent claims), and thus fails to make obvious the subject claims. Hence, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP503USB].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROCY & CALVIN, LLP

/Himanshu S. Amin/
Himanshu S. Amin
Reg. No. 40,894

AMIN, TUROCY & CALVIN, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731